

SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: Appeal of the Board of Adjustment decision to approve (1) a minimum lot size variance from 43,560 square feet to 7,500 square feet, (2) a variance to the minimum lot width at the building line from 150 feet to 50 feet, (3) a front yard setback variance from 50 feet to 25 feet, and (4) a side street setback variance from 50 feet to 10 feet for a proposed single home in A-1 (Agriculture District)

DEPARTMENT: Planning and Development **DIVISION:** Planning

AUTHORIZED BY: Dori DeBord

CONTACT: Kathy Fall

EXT: 7389

MOTION/RECOMMENDATION:

1. UPHOLD the Board of Adjustment decision to approve (1) a minimum lot size variance from 43,560 square feet to 7,500 square feet, (2) a variance to the minimum lot width at the building line from 150 feet to 50 feet, (3) a front yard setback variance from 50 feet to 25 feet, and (4) a side street setback variance from 50 feet to 10 feet for a proposed single home in A-1 (Agriculture District); or
2. REVERSE the Board of Adjustment decision to approve (1) a minimum lot size variance from 43,560 square feet to 7,500 square feet, (2) a variance to the minimum lot width at the building line from 150 feet to 50 feet, (3) a front yard setback variance from 50 feet to 25 feet, and (4) a side street setback variance from 50 feet to 10 feet for a proposed single home in A-1 (Agriculture District); or
3. CONTINUE the request to a time and date certain.

District 5 Brenda Carey

Kathy Fall

BACKGROUND:

On June 25, 2007 the Board of Adjustment approved (1) a minimum lot size variance from 43,560 square feet to 7,500 square feet, (2) a variance to the minimum lot width at the building line from 150 feet to 50 feet, (3) a front yard setback variance from 50 feet to 25 feet, and (4) a side street setback variance from 50 feet to 10 feet to a non-conforming lot. The applicant, David Garner, requested these variances in order to construct a single family home. On July 9, 2007 the decision was appealed by Torben Abbott.

STAFF FINDINGS: The applicant has satisfied the criteria for the grant of a variance. Staff has determined that:

- Special conditions or circumstances exist, which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or building in the same zoning district.

Special conditions exist because the subject lot was created as a part of the 1st

Addition to Sylvan Lake, which was platted on October 17, 1925. When the Land Development Code was adopted, the subject lot became substandard.

- Special conditions and circumstances did not result from the actions of the applicant.

The creation of the lot prior to the adoption of the Land Development Code did not result from actions taken by the applicant

- The granting of the variances requested would not confer on the applicant special privileges that are denied by Chapter 30 to other lands, buildings, or structures in the same zoning district.

The lot was created before the adoption subdivision regulations.

- The literal interpretation of the provisions of Chapter 30 would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification.

Without the requested variances the lot could not be developed with a single family home which would deny the applicant rights that are enjoyed by other properties in the area.

- The variances requested are the minimum variances that will make possible reasonable use of the land, building or structure.

Reasonable use has been established by the development of vacant land in the surrounding area with single family homes. Without the requested variances the applicant could not develop the property with a single family home.

- The grant of the variances would be in harmony with the general intent of Chapter 30.

The requested variances would be in harmony with the character of the surrounding area in allowing the use of a single family home.

STAFF RECOMMENDATION:

Staff recommends the Board of County Commissioners uphold the decision of the Board of Adjustment to approve a (1) minimum lot size variance from 43,560 square feet to 7,500 square feet, (2) variance to the minimum lot width at the building line from 150 feet to 50 feet, (3) front yard setback variance from 50 feet to 25 feet, and (4) side street setback variance from 50 feet to 10 feet for a proposed single home in A-1 (Agriculture District); (Torben Abbott, appellant).

ATTACHMENTS:

1. Notice of Appeal to BCC
2. Proposed Site Plan
3. Survey
4. Maps and Aerials

5. Property Appraiser Data
6. BOA Meeting Minutes
7. Aerial

Additionally Reviewed By:

☒ County Attorney Review (Kimberly Romano)

July 5, 2007

RECEIVED JUL 06 2007

Seminole County Planning Division (Room 2201)
1101 East First Street
Sanford, FL 32771

Via: Hand Delivery

Subject: 6/25/2007 Board of Adjustment Hearing, Item 2 – Emmett Ave Lot 76
Request to Appeal Decision

Dear Sir or Madame;

I am writing to request an appeal of the decision on item 2 (Emmett Avenue - Lot 76) from the Board of Adjustment Meeting that was held at 6pm on June 25, 2007. I did not have an opportunity to rebut several of the statements made by the applicant and as a result I do not believe the decision was based on a full and accurate representation of the situation or impacts.

The staff report states that the property will accommodate a single family home with a maximum square footage of 1350 square feet, however the attached site plan referenced shows a 2600 square foot home with an additional garage and connecting covered area (total of approximately 3600 square feet). In addition the proposed site plan shows the house and garage only 10 feet from the Emmett Street right-of-way. Any cars parked in the proposed driveway will be well within the right-of-way.

The ten-foot setback and well over 60% impervious area is completely out of character for Emmett Avenue. There are no front yard setbacks on this side of the street within 50 feet of the right-of-way. The only house with a front yard setback of less than 50 feet on the other side of the street is another property owned by Mr. Gardner (1775 Emmett St) that was built in 1957 (and has a front yard setback of approximately 25 feet). This other property was presented as being similar to what was being proposed however the land area is five times larger and the living area is just over 1400 square feet by county property appraiser records.

I believe the surrounding properties (including the immediately adjacent properties ranging from 1.4 to 2 acres) would be devalued by this development. I understand that this is a "hardship" variance but it would have a detrimental effect on the surrounding properties. I believe Mr. Gardner is aware there is risk in purchasing a non-conforming parcel since this is one of seven properties he currently owns in the immediate area and he has bought and sold others including the other 4 undeveloped lots he bought with this one (according to county property appraiser records).

Sincerely,



Torben Abbott
1510 Travertine Terrace
Sanford, FL 32771
(owner of west adjacent 1.5 acre parcel)

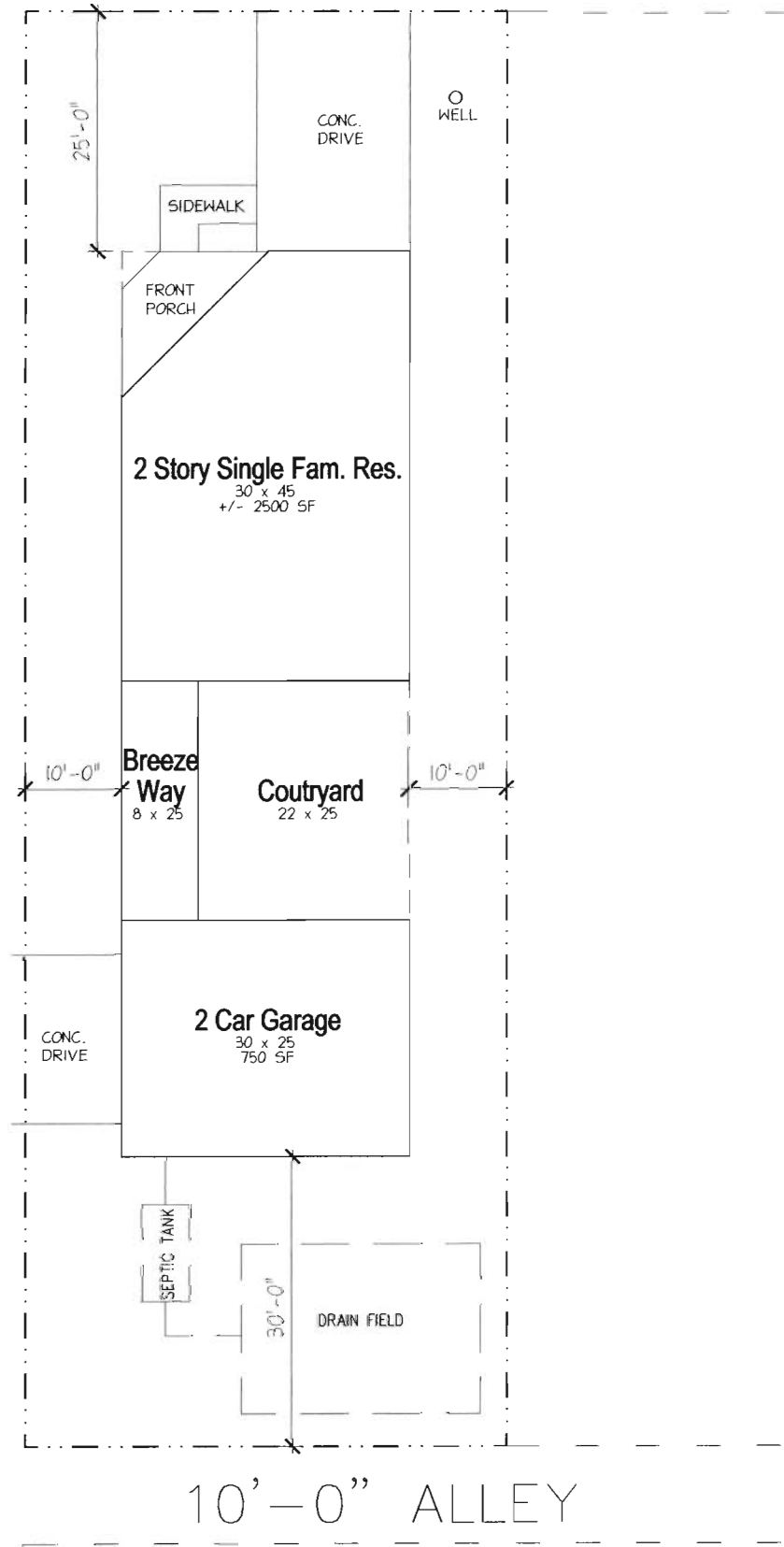
407-965-3052

* 407-260-2292 ext. 110

842007-59

SECOND STREET

EMMETT AVE.



BOUNDARY SURVEY

LEGAL DESCRIPTION: LOT 76, TOWN OF SYLVAN LAKE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE(S) 69, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

SCALE: 1"=30'

RIGHT-OF-WAY LINE	CENTERLINE	BUILDING SETBACK LINE	BARB WIRE FENCE	WOOD FENCE	CHAIN LINK FENCE	PLASTIC FENCE
A/C - AIR CONDITIONER	L - ARC LENGTH	P.O.L. - POINT ON LINE			X - FOUND "X" CUT IN CONG.	
A - CENTRAL ANGLE	L.B. - LAND SURVEYING BUSINESS	P.R.C. - POINT OF REVERSE CURVE			- SET 1/2" REBAR AND CAP	
B/L - BLOCK	L.S. - LAND SURVEYOR	P.R.M. - PERMANENT REFERENCE MONUMENT			PSM LB 7371	
C.B. - CHORD BEARING	M - MEASURED	P.T. - POINT OF TANGENT			- FOUND PROPERTY CORNER	
C.B.S. - CONCRETE BLOCK STRUCTURE	N - NORTH	R - RADIUS			- 4" x 4" CONCRETE MONUMENT	
C.M. - CONCRETE MONUMENT	NAD - NAIL AND DISK	R/W - RIGHT OF WAY			- WELL	
CONC. - CONCRETE	P - PLAT	S/W - SIDEWALK			- COVERED AREA	
D - DIED	P.C. - POINT OF CURVATURE	S - SOUTH			- CONCRETE	
D.E. - DRAINAGE EASEMENT	P.C.C. - POINT OF COMPOUND CURVATURE	U.E. - UTILITY EASEMENT				
E - EAST	P.C.P. - PERMANENT CONTROL POINT	W.F.S. - WOOD FRAME STRUCTURE				
F.F.E. - FINISHED FLOOR ELEVATION	P.L. - PROPERTY LINE					
FND - FOUND	P.O.B. - POINT OF BEGINNING					
ID. - IDENTIFICATION	P.O.C. - POINT OF COMMENCEMENT					
IP - IRON PIPE	P.O.L. - POINT ON LINE					
IR - IRON ROD	P.R.M. - PERMANENT REFERENCE MONUMENT					
I.R.C. - IRON ROD & CAP						

NOTES:

- This survey is based on the legal description as provided by the client.
- This Surveyor has not abstracted the land shown hereon for easements, rights of way or restrictions of record which may affect the title or use of the land.
- Do not reconstruct property lines from building files.
- No footing or overhangs have been located except as shown.
- No improvements or utilities have been located except as shown.
- This survey is not valid without the signature and the official raised seal of a Florida Licensed Survey and Mapper.

BEARINGS SHOWN HEREON ARE BASED UPON THE CENTERLINE OF SECOND STREET BEING N88°50'00"E PER PLAT

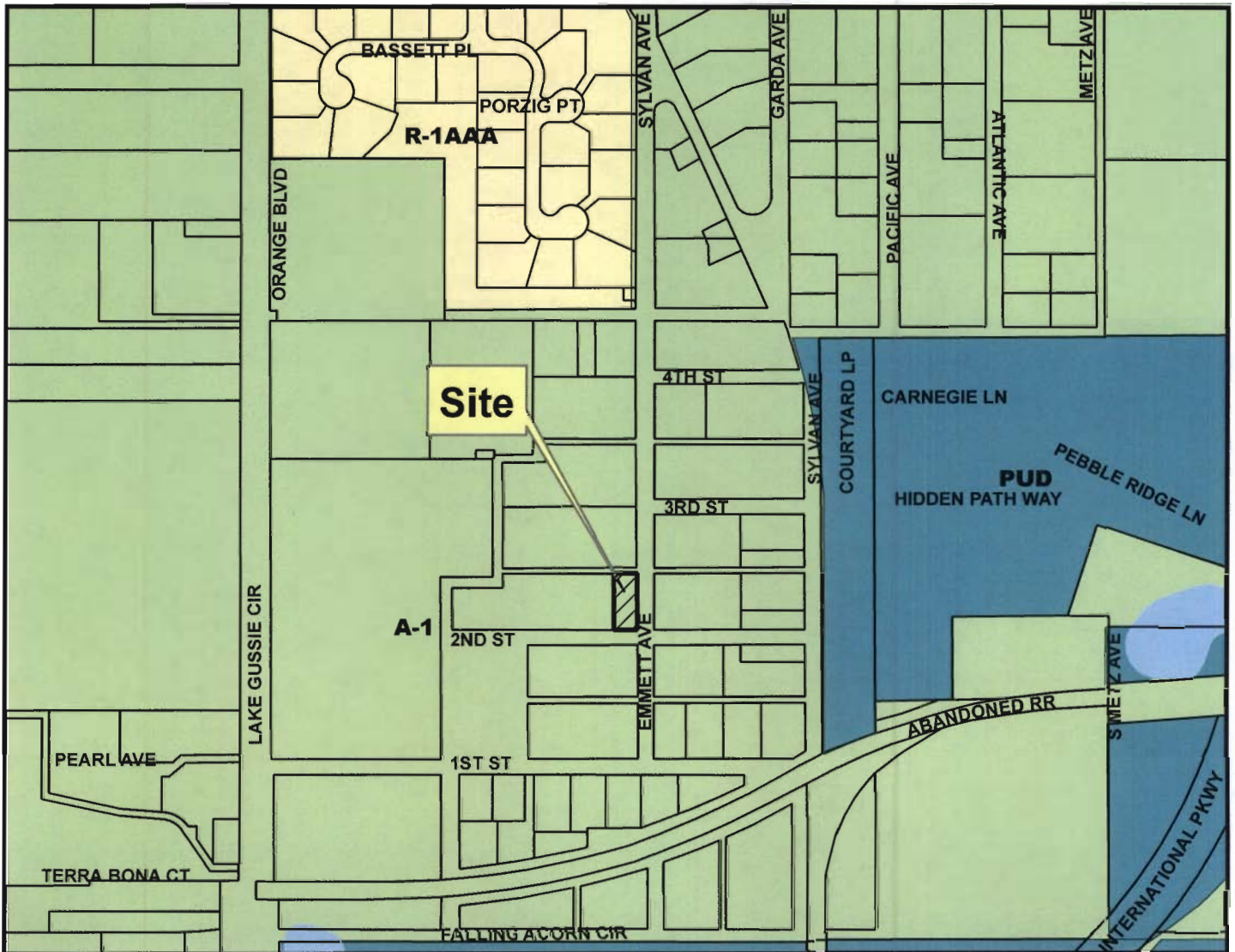
Long Surveying, Inc.
"Specializing in Residential Surveying"
LB No. 7371
101 N. Country Club Road, Suite 220
Lake Mary, FL 32746
Office 407-330-9717 or 407-330-9716
Fax 407-330-9775
WWW.LONGSURVEYING.COM

CERTIFICATION: I certify that this survey was made under my direction and that it meets the minimum technical standards set forth by the Board of Professional Land Surveyors and Mappers in Chapter 61C17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

S. M. Shoemaker, P.S.M. No. 8744

DRAWN BY: NM	CHECKED BY: BRETT
CERTIFIED TO: DAVID GARDNER	
KAMPE TITLE & GUARANTY CORP. STEWART TITLE GUARANTY CO.	
COMMUNITY NO. 120294	FIELD DATE: 04/17/95
PANEL: 0040	
FLOOD ZONE: X	
SURVEY NO. 19927	FIELD DATE: 05/19/06

Torbin Abbott
Lot 76, Town of Sylvan Lake
Emmett Avenue, Sanford, Florida 32771



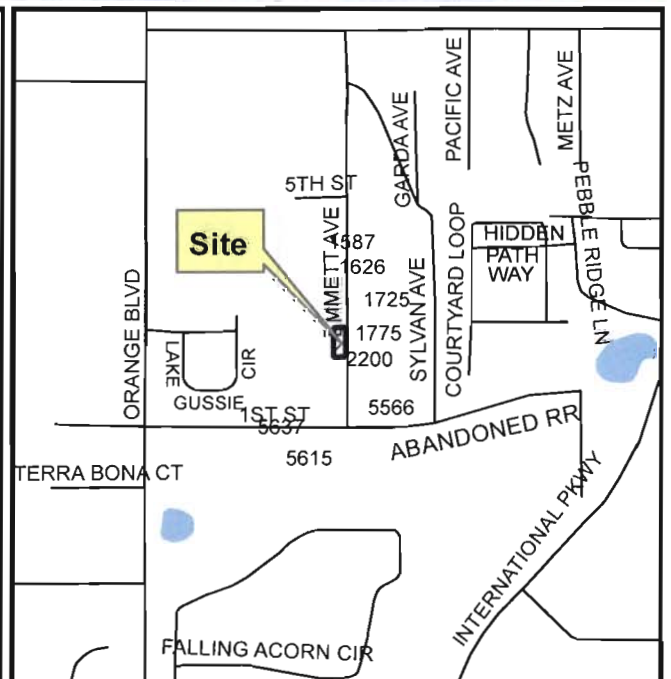
Seminole County Board of County Commissioners
August 28, 2007

Case: BV2007-59

Parcel No: 31-19-30-502-0000-0760

Zoning

-  BV2007-59
-  A-1
-  R-1AAA
-  PUD



http://www.scpafl.org/web/re web.seminole countv title?PARCEL=31193050200000760&cdo= 5/4/2007

MINUTES FOR THE SEMINOLE COUNTY BOARD OF ADJUSTMENT JUNE 25, 2007 MEETING 6:00 P.M.

Members Present: Mike Hattaway, Chairman; Wes Pennington, Alan Rozon, Tom O' Daniel and Dan Bushrui

Staff Present: Kathy Fall, Principal Planner; Denny Gibbs, Senior Planner; Joy Williams, Planner; Kimberly Romano, Assistant County Attorney

Mr. Hattaway, Chairman; called the meeting to order at 6:00 P.M. Mr. Hattaway then explained the method by which the meeting would be conducted, rules for voting and appealing decisions.

2. **1775 Emmett Avenue** – David Gardner, applicant; Request for a (1) minimum lot size variance from 43,560 square feet to 7,500 square feet, (2) width at the building line from 150 feet to 50 feet, (3) front yard setback variance from 50 feet to 25 feet, and (4) side street setback variance from 50 feet to 10 feet for a proposed single home in A-1 (Agriculture District); Located on the northwest corner of the intersection of Second Street and Emmett Avenue; (BV2007-59).
Kathy Fall, Principal Planner

This item was removed from the Consent Agenda and placed with the Public Hearing Items.

PUBLIC HEARING ITEMS

2. **1775 Emmett Avenue** – David Gardner, applicant; Request for a (1) minimum lot size variance from 43,560 square feet to 7,500 square feet, (2) width at the building line from 150 feet to 50 feet, (3) front yard setback variance from 50 feet to 25 feet, and (4) side street setback variance from 50 feet to 10 feet for a proposed single home in A-1 (Agriculture District); Located on the northwest corner of the intersection of Second Street and Emmett Avenue; (BV2007-59).
Kathy Fall, Principal Planner

Kathy Fall introduced the location of the property and stated that the lot had always been owned by one (1) owner. She further stated that staff recommended approval of the request because the applicant satisfied the criteria for granting a variance.

David Gardner stated that he was requesting the variances to build a house to live in. He further stated that he had lived in the area and really liked the area. He then stated that there were other lots in the neighborhood that were similar in size to the lot he was proposing to build a house on.

Zak Miller stated that he owned property in the area and that he also lived in the area. He further stated that he was in support of Mr. Gardner's request. He then stated that a lot of the homes in the area are older homes and it would be nice to have some new construction in the area. He lastly stated that he knew of a lot a block over from the subject property that the Board of Adjustment granted approval.

Carole Gilbert stated that she lived next door to the subject property and that she had faxed over her letter of opposition. She then stated that she could read it if the Board would like.

Mr. Hattaway stated that the Board received her fax and that if she wanted to add anything to it the Board would be happy to hear it.

She stated her fax was sufficient.

Torben Abbott stated that last year he purchased the property to the west of the proposed lot, and that he was in opposition of the request because it really varied with the character of the area and of the side of the street that the applicant was proposing to face his home. He further stated that the proposed 10 feet frontage on Emmett Avenue would have the applicant house being built in the front yard of every house on that side of the street. He then stated that he was not sure where all the drainage would go because of the size of the lot but that it would really affect the neighboring properties in a bad way.

David Gardner stated that he had a letter of support from the neighbor across the street. He further stated that over on 1st Street most of the lots are smaller and they had houses on them and that down on Emmett Avenue to the north there were three (3) lots in a row that were smaller and had houses build on them. He then stated that his side entrance would face Emmett Avenue and that his front door would be on 2nd Street which is not a paved road.

Mr. Rozon made a motion to approve the request.

Mr. Pennington seconded the motion.

The motion passed by a (4-1) vote. Mr. Bushrui was in opposition.

Aerial View



BOUNDARY SURVEY

LEGAL DESCRIPTION: LOT 76, TOWN OF SYLVAN LAKE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE(S) 69, OF THE PUBLIC RECORDS OF SEMINOLE COUNTY, FLORIDA.

SCALE: 1"=30'

RIGHT-OF-WAY LINE	CENTERLINE	BUILDING SETBACK LINE	BARB WIRE FENCE	WOOD FENCE	CHAIN LINK FENCE	PLASTIC FENCE
A/C - AIR CONDITIONER	L - ARC LENGTH	P.O.L. - POINT ON LINE			X - FOUND "X" CUT IN CONG.	
A - CENTRAL ANGLE	L.B. - LAND SURVEYING BUSINESS	P.R.C. - POINT OF REVERSE CURVE			- SET 1/2" REBAR AND CAP	
B/L - BLOCK	L.S. - LAND SURVEYOR	P.R.M. - PERMANENT REFERENCE MONUMENT			PSM LB 7371	
C.B. - CHORD BEARING	M - MEASURED	P.T. - POINT OF TANGENT			- FOUND PROPERTY CORNER	
C.B.S. - CONCRETE BLOCK STRUCTURE	N - NORTH	R - RADIUS			- 4" x 4" CONCRETE MONUMENT	
C.M. - CONCRETE MONUMENT	NAD - NAIL AND DISK	R/W - RIGHT OF WAY			- WELL	
CONC. - CONCRETE	P - PLAT	S/W - SIDEWALK			- COVERED AREA	
D - DIED	P.C. - POINT OF CURVATURE	S - SOUTH			- CONCRETE	
D.E. - DRAINAGE EASEMENT	P.C.C. - POINT OF COMPOUND CURVATURE	U.E. - UTILITY EASEMENT				
E - EAST	P.C.P. - PERMANENT CONTROL POINT	W.F.S. - WOOD FRAME STRUCTURE				
F.F.E. - FINISHED FLOOR ELEVATION	P.L. - PROPERTY LINE					
FND - FOUND	P.O.B. - POINT OF BEGINNING					
ID. - IDENTIFICATION	P.O.C. - POINT OF COMMENCEMENT					
IP - IRON PIPE	P.O.L. - POINT ON LINE					
IR - IRON ROD	P.R.M. - PERMANENT REFERENCE MONUMENT					
I.R.C. - IRON ROD & CAP						

NOTES:

- This survey is based on the legal description as provided by the client.
- This Surveyor has not abstracted the land shown hereon for easements, rights of way or restrictions of record which may affect the title or use of the land.
- Do not reconstruct property lines from building files.
- No footing or overhangs have been located except as shown.
- No improvements or utilities have been located except as shown.
- This survey is not valid without the signature and the official raised seal of a Florida Licensed Surveyor and Mapper pursuant to Section 472.027, Florida Statutes.

CERTIFICATION: I certify that this survey was made under my direction and that it meets the minimum technical standards set forth by the Board of Professional Land Surveyors and Mappers in Chapter 61C17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Long Surveying, Inc.
 "Specializing in Residential Surveying"
 LB No. 7371
 101 N. Country Club Road, Suite 220
 Lake Mary, FL 32746
 Office 407-330-9717 or 407-330-9716
 Fax 407-330-9775
 WWW.LONGSURVEYING.COM

BEARINGS SHOWN HEREON ARE BASED UPON THE CENTERLINE OF SECOND STREET BEING N88°50'00"E PER PLAT

DRAWN BY: NM
CHECKED BY: BRETT

CERTIFIED TO: DAVID GARDNER
 KAMPE TITLE & GUARANTY CORP.
 STEWART TITLE GUARANTY CO.

COMMUNITY NO.: 120294
PANEL: 0040
FLOOD ZONE: X

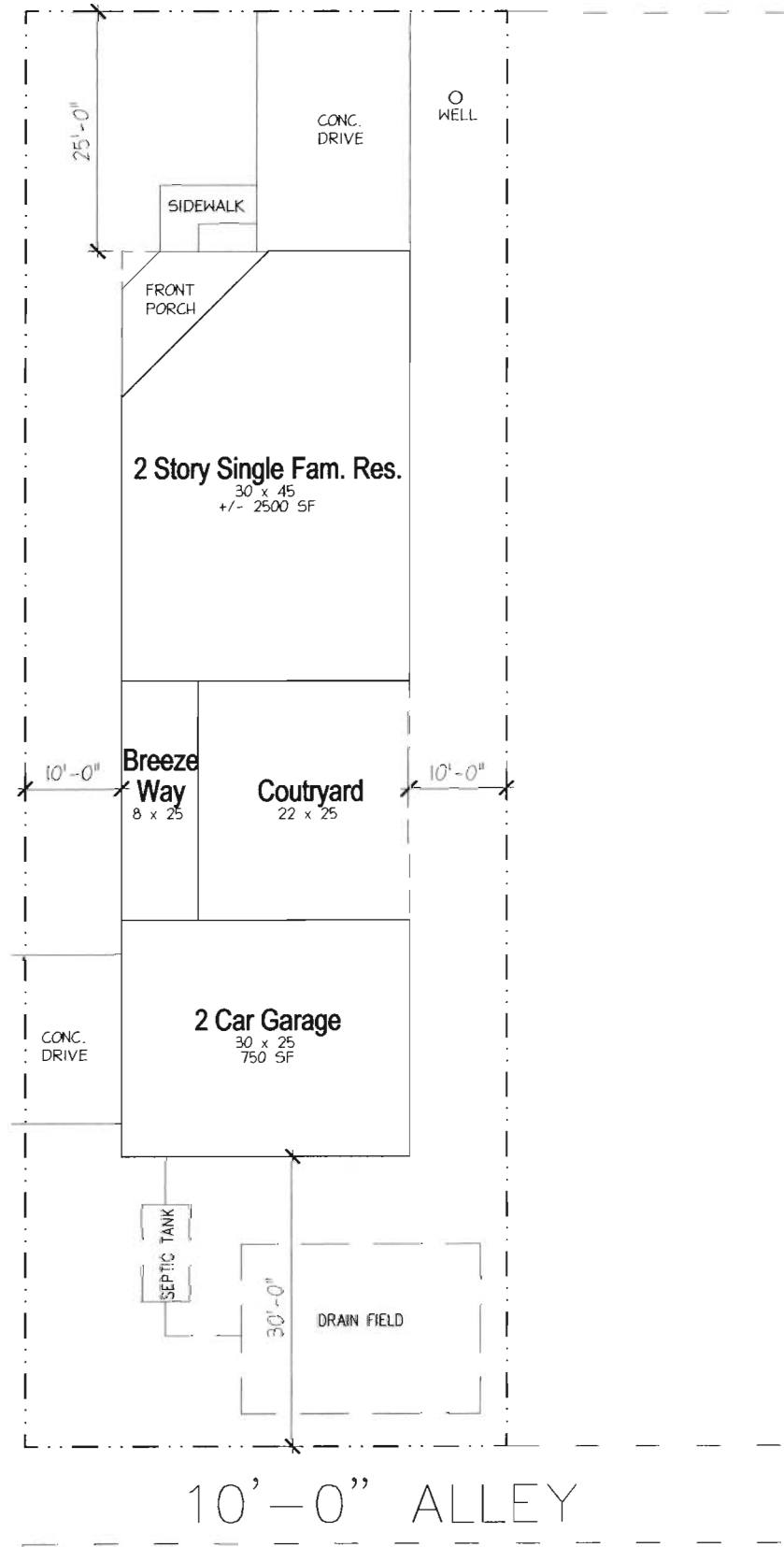
FIELD DATE: 04/17/95
FIELD DATE: 05/19/06

SURVEY NO.: 19927

842007-59

SECOND STREET

EMMETT AVE.



http://www.scpafl.org/web/re web.seminole countv title?PARCEL=31193050200000760&cdo= 5/4/2007